

**MINUTES OF A REGULAR MEETING
OF THE
BOARD OF TRUSTEES
OF THE
TOWN OF BUENA VISTA, COLORADO**

July 14, 2009

WORK SESSION

A work session convened at 6:04 PM at the Buena Vista Community Center, Pinon Room, 715 E. Main Street, Buena Vista, Colorado to discuss the Capital Improvement Plan. Those present were Mayor Russell, Trustees Robert Flint, Mark Boston, Joel Benson, Norm Nyberg, Brett Mitchell, Town Administrator Sue Boyd, Town Planner Shannon Haydin, Public Works Director Roy Gertson, Airport Manager Bob Johnson, Town Treasurer Christine DeChristopher and Town Clerk Diane Spomer. Trustee Baker was absent.

Christine DeChristopher provided an overview of the Capital Improvement Plan that will be adopted later this year and will be incorporated in the 2010 budget and outlined possible projects and funding for 2010 and solicited input. A lengthy discussion followed on debt issuance; approval for bonds from the voters, grant deadlines, funding for paving remaining streets in Town, Gregg Drive. Council consensus was to pursue funding sources and information on Gregg Drive without sidewalks, getting bonding information and they were in support of mini grants and planning grants. The work session concluded at 7:00 PM.

CALL TO ORDER

A Regular meeting of the Board of Trustees was called to order at 7:08 PM, Tuesday, July 14, 2009, at the Buena Vista Community Center, Pinon Room, 715 E. Main Street, Buena Vista, Colorado by Mayor Cara Russell. Present were Trustees Brett Mitchell, Mark Boston, Robert Flint, Norm Nyberg, Joel Benson, Town Administrator Sue Boyd, Town Attorney Lee Phillips, Town Planner Shannon Haydin, Airport Manager Bob Johnson, Public Works Director Roy Gertson, Police Chief Jimmy Tidwell, Town Treasurer Christine DeChristopher and Town Clerk Diane Spomer. Trustee Baker was absent.

ROLL CALL

Town Clerk Spomer proceeded with the roll call and declared a quorum.

PLEDGE OF ALLEGIANCE

Mayor Russell led in the Pledge of Allegiance.

AGENDA ADOPTION

Mayor Russell noted the Collegiate Peaks Music Festival requested placing four temporary signs on E. Main and to waive the \$150 application fee and it should be added as item B under New Business.

Motion #1 by Trustee Benson, seconded by Trustee Boston, to adopt the agenda as amended. Motion carried.

CONSENT AGENDA

- A. Minutes**
 - 1. Regular Meeting – June 23, 2009
 - 2. Special Meeting – June 26, 2009
- B. Advisory Board Minutes**
 - 1. Planning & Zoning Commission
 - 2. Airport Board
 - 3. Beautification Committee
 - 4. Trails Advisory Board
- C. Street Closure Request**

1. Should the Board approve a request from the Transrockies to close the north side of E. Main Street from S. Colorado to the end of E. Main Street on August 23, 2009, from 8 AM – 10:45 AM for the Transrockies Race?
 2. Should the Board approve a request from Thomas Liverman to close Lake Street from W. Main to Curtis Street on September 19, 2009, from 6 AM – 3 PM for the annual Autumn Color Run Foot Race?
- D. Should the Board approve adoption of Resolution #50, Series 2009, entitled "**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA RE-APPOINTING BOB FREED AND APPOINTING CHERIE HAARBERG AS VOTING MEMBERS, AND RE-APPOINTING CAL ANDERSON AS AN ALTERNATE MEMBER OF THE AIRPORT ADVISORY BOARD**"?
- E. Should the Board approve adoption of Resolution #51, Series 2009, entitled "**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO, RE-APPOINTING TAMI YINGER AS A VOTING MEMBER, APPOINTING JAN LEWIS AS A VOTING MEMBER AND APPOINTING JENNIFER WRIGHT AND DIANE LOOK AS ALTERNATE MEMBERS OF THE BEAUTIFICATION ADVISORY BOARD**"?

Motion #2 by Trustee Flint, seconded by Trustee Mitchell, to approve the Consent Agenda as presented.

Trustee Benson referenced page 11, second paragraph discussing "the street requirements as character and use change" and when it changes from industrial to something else asked for clarification that we talked about an actual change of business or the use of the land. Mayor Russell suggested the language to be "less than a zone change" Attorney Phillips suggested language of "a change in use" should be the trigger.

Trustee Flint amended his motion, seconded by Trustee Mitchell, to approve the Consent Agenda as amended. Motion carried.

PUBLIC COMMENT

Judy Hassell, 16824 CR 306, Chamber of Commerce, was present to address comments she received about the Town's concern with special events, noted that the events bring people to Town, they have found that some things happen that we do not prepare for, there are thoughts on a new special event license being proposed and feels it is good but asked Council not to see it as a money making proposition, asked that licenses and permits not be overpriced, a lot of volunteer time is spent on the events and proceeds are spent on the next year's event. Judy concluded by saying she is "all for" a new process so there are no surprises and that the events "go off smoother".

RESPONSE TO PUBLIC COMMENT

Trustee Boston expressed that the intent of a Special Use Permit process is not for moneymaking purposes, but Council wants to highlight the expectations for events, for port-a-potties to be handled and compensating for staff time.

NEW BUSINESS **PRESENTATION BY ATMOS ENERGY REGARDING INFORMATION ON THEIR RATE CASE FILING**

Kevin Kerrigan, Atmos Energy, was present to advise Council of a recent rate case they filed with the P.U.C. that is the first one since Atmos took over comfort Gas 5 years ago. Kevin introduced other associates and Dan Higgins outlined that the rate filing is for the entire state for \$3.9 million for systems they put in the ground, safety maintenance and cost of services on capital projects; notice will be in the paper Thursday for the public with an insert in the next bill explaining the filing; rates will take effect August 12 for a 16% increase on the facility charge and local distribution charge and noted gas costs from last year are down by half.

Collegiate Peaks Music Festival to place four temporary signs in four locations on E. Main and to waive the \$150 application fee

Town Planner Haydin noted the request came late yesterday and spoke with Laurie Benson this morning. The Music Festival is asking to place four sandwich board signs on town property, two in two of the bump-outs; staff discussed the license agreement process, a number of instances have occurred throughout Town without permission being asked for and noted three options outlined in her staff report: deny the request for the bump-outs; allow the signs as requested without a License Agreement or approve the signs as requested with a waiver of the fee and solicited input from Council on how to proceed in the future. A resolution and license agreement were provided if Council approved the request.

Trustee Boston disclosed that he serves on the CCPAC Board. Trustee Benson noted a former attorney stated if it is a non-profit he could disclose it and participate and there is no financial interest. Attorney Phillips stated both Trustees could participate.

Discussion followed on there have been no police reports for accidents in the bump-outs and that the Department is not in favor of benches in the bump-outs due to closeness to Main Street; there is no way to advertise for events in Town; there are no banner poles to advertise and how does the Town promote events; Attorney Phillips noted a dangerous condition of a street or sidewalk and that there is a liability risk and is not immune from tort liability and suggested the signing of the license Agreement with use of indemnity and insurance language; the Town is a property owner and can say no.

Laurie Benson noted it is their 4th year and a banner over Main Street would be easy and events would have the ability to advertise at a specific location; stated it is not fun to find locations for placement of banners nor to advertise for the S. Main area; businesses on Main Street requested no street closure in July so it was moved to S. Main and it is difficult to place signs for directions to that area.

Town Planner Haydin advised Council that our current sign code says a temporary sign does not need a permit if it is up for only two weeks but the new sign code does require permits for temporary signs and it can be tracked.

Discussion followed on bump-outs are large enough for foot traffic; approval of the request would be support "for" the project.

Motion #3 by Trustee Flint, seconded by Trustee Mitchell, to approve Resolution #54, Series 2009. Discussion followed on not amending the fee but adding the \$150 to the donation cost. Motion carried. Trustee Nyberg voted against.

SHOULD THE BOARD APPROVE A REQUEST FOR A WAIVER OF THE APPLICATION FEE FOR A TEMPORARY USE PERMIT FROM CHAFFEE COUNTY FIRE?

Ron Hassell, Chairman of CCFD, noted the request is for professional consideration and mutual benefit and requested approval of the waiver of the application fee as they are trying to do their best with tax payers dollars.

Administrator Boyd added it is a basic fee request "as a good will, mutual benefit and service oriented" request. Ron added that they do spend tax dollars in Town, they have assisted local law enforcement on investigations, are seeking grant funds and working with the County to do a joint facility and are looking for a temporary facility during the process.

Discussion followed on the amount of staff time spent on the request; discussions will be held at another time on fee waiver requests in the near future.

Motion #4 by Trustee Nyberg, seconded by Trustee Flint, to approve the waiver for \$75. Discussion held on all applicants are charged the same fees and we are waiving the fees for an outside entity; CCFD is a different tax base. Motion carried. Trustees Mitchell and Boston voted against.

PUBLIC HEARING – TO CONSIDER A REQUEST FOR A TEMPORARY USE PERMIT FROM CHAFFEE COUNTY FIRE DEPARTMENT TO ALLOW FOR A MOBILE OFFICE BUILDING AND VINYL FABRIC GARAGE

Town Planner Haydin outlined the request for the office space and the vinyl garage; the permit came in to Town Hall when staff was in transition so in an effort to cooperate with their time frame we moved it forward before Council; P&Z approved with conditions (the building be placed outside the easement and Sangre De Cristo no longer has service); the gas company says as long as it is not over the gas line they are OK with it; Sanitation said if it is off their line it is fine; Chaffee County stated they cannot place it over an easement; the set-back on Raymond Lee is 25' but P&Z recognized the doors on the back and they cannot push it over 25' and are OK with placement of the building in a manner that complies with set-backs as much as possible so there is no impact to the house adjoining; the Code allows for 6 months with a renewal that has no time limit tied to it and P&Z recommended an extension not to exceed 6 months and to approve when the building permit is pulled; a change to the Resolution is Sec. 16-63 is to replace 16-163.

Mayor Russell opened the public comment portion of the hearing at 7:58 PM with no comments received and closed the comment portion of the hearing.

Ron Hassell provided pictures of proposals they received and noted they plan on putting the building next to the ornamental trees and the building is green. Discussion followed on no water and sewer will be used in the building; good cooperation between the Town and other municipal/governmental bodies; the Temporary Use will be solidified when the building permit is pulled for the actual location; 30 days prior to the 6 month period they have to submit a request for an extension; staff is working on a tickler system to follow-up on these types of requests; CCFD will be adding on to the existing building and working on an exact location with an architect to assist; the grant deadline on one grant is December 1; Sec. 1(b) the six month permit validity should be issued for the temporary buildings "commencing with the placement of each" to be added to the resolution and adding 16-63 in place of 16-163.

- **Should the Board approve adoption of Resolution #52, Series 2009, entitled "A RESOLUTION BY THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, APPROVING A TEMPORARY USE PERMIT FOR CHAFFEE COUNTY FIRE PROTECTION DISTRICT, FOR TWO TEMPORARY STRUCTURES TO BE PLACED DURING REMODELING OF THE FIRE STATION ON LOTS 38 AND 39 OF THE WESTMOOR SUBDIVISION AMENDED, SAID PARCEL BEING LOCATED WITHIN THE TOWN LIMITS OF THE TOWN OF BUENA VISTA, COLORADO"?**

Motion #5 by Trustee Mitchell, seconded by Trustee Flint, to approve as outlined with "placement of each". Motion carried.

PUBLIC HEARING – Should the Board approve adoption of Resolution #53, Series 2009, entitled "A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, AMENDING THE ESTABLISHED FEE FOR PAYMENT IN LIEU OF PROVISION OF NONRESIDENTIAL OFF-STREET PARKING SPACES IN THE B-1 ZONE"?

Shannon Haydin noted minor changes to Resolution #53 are references to the code; the original ordinance stated there was a separate document to be adopted to set the fees on an on-going basis; this will allow the staggering of fees of 25% over 4 years and B1 zones are mostly in the downtown core area.

Mayor Russell opened the public comment portion of the hearing at 8:14 PM with no comments received and closed the comment portion of the hearing.

Discussion held on another option is a lump sum at building permit stage; the Town has no accounts receivable software package and the funds are put on the books and periodic bills are sent out like planning invoices; 1st installment will be paid at the end of the 1st year; last line in resolution should delete "over the period of 4 years" and add "1st installment payable at the issuance of the building permit"; last line should be "25% of the total fee per year, the first installment payable upon application of a building permit or initiation of new use requiring additional parking".

Motion #6 by Trustee Benson, seconded by Trustee Boston, to approve with the amendment as stated. Motion carried.

A break was taken from 8:27 PM to 8:32 PM.

SHOULD THE BOARD AUTHORIZE THE HIRING OF A MANAGEMENT CONSULTANT FOR THE CENTRAL COLORADO REGIONAL AIRPORT?

Administrator Boyd outlined differences between management's interpretation of FAA regulations and Town Rules & Regulations with some tenants governing operations at the airport; after a number of Airport Board meetings there has been dialogue between two difficult individuals to have issues handled with the assistance of a third party; attended the Colorado Association of Airport Operators Conference and spoke with Jeff Price of Leading Edge who may be a good fit for what we need on a small scale, to complete a needs assessment, review all our documents and report back to the Board with findings and recommendations which may include modifications to our rules and regs. or issues that tenants need to rethink. The proposal is for less than \$5,000 which we have in savings and staff proposes to reallocate the funds to hire this consultant and break through the road block to progress at the airport. Mr. Price feels we can do that, we do not have to go to bid for less than \$5000 and the Airport Board recommends his endorsement and Sue requested direction from Council.

Discussion followed on accepting the bid not to exceed \$5,000; there are issues with FAA rules and guidelines and the interpretation of it as Board members have seen at an Airport Board meeting and "how people work with each other" is another issue; Sue expressed a third party is necessary and that she cannot deal with the issues as a management employee; consistency of three individuals attending the Airport meetings and citizen concerns that the Town should send the bill to them; Mayor Russell noted that although the three individuals expressed problems the ripples go a long way in the aviation industry; if we can succeed with this issue the other airport consultant contracts will proceed; Mr. Price feels he can resolve the issue in 1-2 months. Council consensus was for staff to proceed.

STAFF REPORTS

TOWN ADMINISTRATOR:

Administrator Boyd had the following items to cover:

- The Governor's Energy Office came and did a presentation to the Commissioners about additional dollars that may be available to engage a local energy coordinator and we all agree on one integrated effort.
- Some of the situation at the airport was "ratched up a bit", we received a report after a FAA site visit that we have compliance issues and are trying to address them.
- Susan Kirkpatrick with DOLA, our grant funder, is planning a visit to Buena Vista and Chaffee County on Monday, the 20th, for a visit on E. Main at 4 PM and invited Council. Sue will provide more specifics. Mayor Russell noted a discussion at the last Airport meeting about an alternative design to save the Town money and asked if staff got the information. Sue noted staff has not heard anything new but will follow-up.
- The PT Code Enforcement Officer, Lisa Malde, started today. Trustee Benson asked about her "direction" on enforcing the code. Sue advised the point of moving the position under Planning was because it is land use code and having the ability to communicate on a violation; the first step is education with written notification; spoke with Lee Phillips today about meeting to discuss enforcement tools if things do not get resolved at the first level. Discussion followed on fencing

issues; abatement and prosecution process; getting direction from Council; strategizing; pick & chose on the type of violation; changing some sections of the code.

- Trustee Nyberg asked about the Cottonwood review fees still due for \$32,000. Sue advised they have been billed, when she met with Mr. Cogswell four months ago no indication was received on when and how that would be paid. A short discussion followed on late fees and processes.
- We had a request from CML to do an article on Buena Vista and the importance of the Arkansas River to our economy and that has been submitted.
- The boulder construction is complete and we need to think about a ribbon cutting.
- The Brookdale Re-subdivision will be coming before you soon, there are discussions with CDOT on a curb cut and we are working on the confusion. We will be discussing the access plan also.
- On page 94, due to a lack of resources the conversation for an Emergency Services Manager is on hold.
- Mayor Russell stated she attended a session at the CML Conference about responding in emergencies and believes Buena Vista could use it's own emergency services plan separate from the County. Shannon received an e-mail from FEMA on grants relating to this issue and will follow-up, they are looking at our flood plain records next week.
- Trustee Benson stated he is looking forward to hearing about the Brownfields grant workshop and doing something with the Texaco.

TOWN TREASURER:

- Christine provided the sales tax report and advised we are up 2.87% which is up compared to most municipalities, but the County is pulling down our overall receipts.
- Trustee Benson asked about meal allowances. Christine noted it is a per diem and when the policy is redone we are looking at a reimbursement rather than per diem.
- Our first direct deposit will be done this week.

POLICE DEPARTMENT/CALL REPORT/MUNICIPAL COURT:

- Trustee Benson noted one spicket near the trailers at Columbine Park has a hose taped and it is going to their trailer with another hose going to another trailer. Roy Gertson advised he just found out about it and there was a water main leak underneath two trailers, an easement was granted years ago for a water main, since then they put trailers on top of the easement; 30 gallons per minute are leaking; it will be a difficult project and will take Sue over to assess the issue and may need to get Lee Phillips involved.

TRUSTEE/STAFF INTERACTION

- Bob Johnson had a meeting after the last Airport Board meeting with individuals representing the hangar association and stated they are having the same problems as the airport with representation. Three major opponents at the airfield do not represent the airport tenants as a whole and are strictly representing themselves; the problems have been going on for years and they are hoping the consultant can get a reasonable resolution.
- Planner Haydin referenced a letter of support requested by Friends of Four Mile for Board review before the Mayor signs. They are proposing 19 miles of trail with connection to the Town trail system to save traffic from the County Road. Council was in support.
- Mayor Russell requested input on a request to change the Town curfew. Chief Tidwell noted Patty Little's concern is people pulling into the park near the Town lake at 1 AM and noted his officers cannot enforce things when there is no signage; they checked plate numbers and have addressed loud radios and re-offenders and feels all parks need the same curfew time with signage. Discussion followed on a curfew earlier than 11 PM; noise ordinance and the Code regulations. Consensus was to let the code stand "as is".
- Mayor Russell attended the Chaffee Housing Trust meeting, paid \$10 to join and asked for reimbursement and if the Town could be the member. Council concurred. Reed McCullough will be here August 25 for a study session. Cara noted Action 22 will hold a Southern Colorado sustainability conference in Pueblo and S. Main will be one of the featured properties at the closing session if Council is interested in attending to show representation. Cara referenced her column on Home Rule and has one more individual interested in being on the committee. Cara

brought forth the "waiving of fees" to be discussed, stated we are responsible to the taxpayers and suggested the applicant could pay the fee and then consider waiving it. Discussion followed on the application check "being held" and if waived we can give it back to alleviate an accounting headache; encouraging people to think further ahead to alleviate processing and reviewing applications before staff gets an answer on the fee.

- Mayor Russell referenced a letter from Paul Ahrens. Roy Gertson stated the money hasn't been there but we can do an estimate for the 2010 budget. Christine Dechristopher expressed we cannot address every concern that way, we have to have a rationale on how to address all streets and the capital plan with prioritization based on condition. Cara requested that staff respond to Ms. Little and Mr. Ahrens based on discussions tonight.
- Trustee Nyberg noted the lack of communication between Town Hall staff and the Police Department and it needs to be more positive. Sue stated she will look into the situation as she was not aware of it.
- Trustee Benson asked for information from S. Main's amendment that Council approved in October, 2007, and noted there were two port-a-potties and one was moved to the south side of the boulder park. This was to be discussed in June, 2009 to see about the need for a permanent bathroom and felt it needed to be revisited now since there is an immediate need for bathrooms near the river that are accessible especially with the new boulder parks and traffic from the Brewery. Administrator Boyd noted she was not aware of it until Joel mentioned it and suggested staff meet with Jed before it is placed on the agenda. Joel asked if signs can be posted at the river park on the restroom hours. Roy noted some vandalism issues but it can be done. Joel noticed with the parade and 4th of July there are no public restrooms in Town for the events, stated some events bring them and the Town can encourage or require them. Sue advised this is one of the intents of the Special Event Permit process. Joel referred to the meetings that were to occur with businesses and the Chamber on what is important in working with the Town and blocking progress and wanted to help put that meeting together after October. Sue noted staff is trying to do the entire permitting process after summer season and it is a matter of timing. Mayor Russell offered that she talked to John Engelbrecht and will share information with Joel. Joel stated some people are wondering about "rent me jeeps" around Town and asked for a code provision. Shannon stated it is zoned B2, she has had complaints and is trying to see if we can regulate it but it is allowed. Joel asked if vending carts for Bike Fest are permitted. Sue received something on it and stated no sales tax was charged and several things need to be researched.
- Public Works Director Gertson noted CDOT has specs on banner poles. Discussion followed on helping to promote events in Town and banner poles and where to place them.
- Trustee Mitchell asked about the ants in the park. Roy advised the Parks Dept. is aware of it.

EXECUTIVE SESSION – FOR A CONFERENCE WITH THE TOWN WATER ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS UNDER C.R.S. 24-6-402(4) (B) PERTAINING TO AN AUGMENTATION PLAN WITH THE UPPER ARK WATER CONSERVANCY DISTRICT AND THE MEADOWS

Administrator Boyd advised that a comment was received at Town Hall from individuals who are concerned about the Meadow's application being discussed and that the Executive Session is about water and a request that the UAWCD received from The Meadows for augmentation. The recommendation is to talk to Council about the water implications, The Meadows approached the UAWCD who is looking for feedback from the Town before they proceed.

Water Attorney Cyndi Covell added that the party is opposed to several water cases filed by UAWCD, we have been in discussions with the District for some time for a cooperative water sharing agreement between the Town and Upper Ark; we are asking for an Executive Session since a lot of pieces fit together, a trial is scheduled in October and we are preparing terms and conditions to present to UAWCD to protect the Town's water and we want to discuss this pending litigation along with other pieces of other litigation.

Trustee Benson noted he may be renting some office space in the fall from Mr. Cogswell. Attorney Phillips noted it is not a disabling conflict.

Motion #7 by Trustee Boston, seconded by Trustee Mitchell, to enter into Executive Session for a conference with the Town Water Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4) (b) pertaining to an augmentation plan with the Upper Ark Water Conservancy District and The Meadows. Motion carried. Those present for the Executive Session were Mayor Russell, Trustees Mark Boston, Joel Benson, Brett Mitchell, Robert Flint, Norm Nyberg, Administrator Sue Boyd, Public Works Director Roy Gertson, Water Attorney Cyndi Covell and Town Attorney Lee Phillips. Executive Session was held from 9:48 PM to 10:32 PM. Trustee Mitchell left the meeting at 10:00 PM.

Motion #8 by Trustee Benson, seconded by Trustee Boston, to adjourn back to Regular Session. Motion carried.


ADJOURNMENT

Motion #9 by Trustee Flint, seconded by Trustee Nyberg, noting that there being no further business to come before the Board declared that the meeting be adjourned at 10:35 PM. Motion carried.

Respectfully submitted:



Mayor, Cara Russell



Town Clerk, Diane Spomer